REMARKS

Applicant is in receipt of the Office Action mailed February 6, 2004. Claims 1 – 37 remain pending in the application. Reconsideration is respectfully requested in light of the following remarks.

Section 112, First Paragraph, Rejection:

The Office Action rejected claims 1, 9 and 15 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Specifically, the Examiner asserts that the term "first time value" is not specifically described in the specification. However, Applicant respectfully notes that information comprising "a time value" corresponding to a computer is clearly described in the specification at Fig. 4 (420), Fig. 5 and p. 13, line 16 – p. 16, line 16. The adjective "first" is merely used to specify a distinct instance of a time value in the claim. Using a label, such as "first", to refer to a specific instance is a very common practice and easily understood. One of ordinary skill in the art would easily understand the meaning of the term "first time value" to make and use the invention. Accordingly, Applicant's claims 1, 9, and 15 are in compliance with 35 U.S.C. § 112, first paragraph.

Section 103(a) Rejection:

The Office Action rejected claims 1-3, 5, 6, 8, 9, 11, 12, 14-16, 18-22, 24-26, 28-31, 33, 34, 36 and 37 under 35 U.S.C. § 103(a) as being unpatentable over Shelton et al. (U.S. Patent 6,418,471) (hereinafter "Shelton") in view of Eichstaedt et al. (U.S. Patent 6,662,230) (hereinafter "Eichstaedt"). Applicant respectfully traverses this rejection for at least the following reasons.

Shelton in view of Eichstaedt does not teach or suggest sending a request for information t the first computer, wherein the information comprises a first Internet address and a first time value corresponding to the first computer, as

recited in claim 1. The Examiner refers to col. 6, lines 7-23 of Shelton in regard to these limitations of claim 1. This portion of Shelton describes the operation of the WTS server 144 which is part of Shelton's WTS (Web Tracking and Synching) mechanism. The WTS server in Shelton record browser activities from web browsers 114 on terminals 104. However, the WTS mechanism of Shelton is not described as ever requesting any information from terminals 104, let alone an Internet address and/or a time value. Neither col. 6, lines 7-23, nor any other portion of Shelton describes the WTS mechanism requesting information from any of the terminals. Note that the information stored in session table 145 (Fig. 6) is not requested from the terminals 104. Shelton only describes the WTS mechanism as tracking browser activity that it receives from the terminals. Shelton does not teach that the WTS mechanism ever requests any information from the terminals or browsers. A similar argument applies in regard to independent claims 9, 12 and 15.

Furthermore, Shelton in view of Eichstaedt does not teach or suggest determining whether a matching record for the first Internet address and the first time value exists in the database, and identifying the first computer as a distinct user if the matching record does not exist in the database, as recited in claim 1. The Examiner refers to col. 7, lines 23 – 63, of Eichstaedt in regard to these limitations of claim 1. Eichstaedt teaches a method implemented in a server which automatically recognizes when a client computer is making requests too frequently or is accessing too much of the server computer's resources. (col. 3, lines 46 – 49). Specifically, Eichstaedt obtains an IP address or other client identifier and determines if the client is on a deny list, in which case the client is refused. (col. 7, lines 23 – 31). Eichstaedt further teaches that the server performs frequency checks, wherein the number of requests the client identifier has made within a predefined *time period* t1, as determined from a log file, is compared with a predefined maximum number x1. Values for t1 and x1 are chosen by a system administrator. If the client identifier has more than x1 requests, the client is added to the deny list. If the client identifier passes a last frequency check, the requested data object is sent. (col. 7, lines 32 – 63, emphasis added).

Eichstaedt teaches comparing *a number of requests made within a time period* to a predefined maximum number, not determining if a time value contained in a matching record exists in a database, as recited in claim 1. Furthermore, Eichstaedt teaches performing a series of frequency checks if a client identifier is not found in a deny list, not identifying the first computer as a distinct user if the matching record does not exist in the database. A similar argument applies in regard to independent claims 9, 15, 16, 19, 20, 26, 29, 30, 34 and 37.

Moreover, the Examiner has not provided a proper motivation to modify Shelton according to Eichstaedt. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so in the prior art. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). The question is whether there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 488 (Fed. Cir. 1984). The reason given by the Examiner to combine the references is that "it would be more efficient for a system to update and log users interactions with a web sites which could aid in the determination in trends or stop invalid users (robots) from accessing site that would require human interaction for payment of services." Applying the method for automatically limiting access of a client computer to data objects taught by Eichstaedt to the web site in Shelton would only serve to filter out browser interactions from robots and prevent the determination of trends which the Examiner cites as a reason to combine Shelton and Eichstaedt. However, filtering out browser interactions would defeat the intended purpose of Shelton to record all browser activity to the web site. If a proposed modification would render the prior art feature unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900 (Fed. Cir. 1984). Therefore, the combination of Shelton and Eichstaedt is clearly improper.

CONCLUSION

Applicants submit the application is in condition for allowance, and notice to that effect is respectfully requested.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above referenced application from becoming abandoned, Applicant hereby petitions for such extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5596-00200/RCK.

Also enclosed herewith are the following items:

☒ Return Receipt Postcard

☐ Petition for Extension of Time

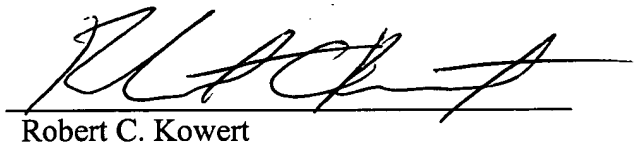
☐ Request for Approval of Drawing Changes

☐ Notice of Change of Address

☐ Fee Authorization Form authorizing a deposit account debit in the amount of $ for fees ( ).

☐ Other:

Respectfully submitted,



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Date: May 6, 2004